Judgment Reserved

HIGH COURT OF UTTARANCHAL AT NAINITAL

(1) Writ Petition No. 3235 (M/S) of 2001

Krishna Kant S/o Sri Ram Kishan
R/o Sukh Shanti Nagar, Tehsil Gadarpur,
District-Nainital. ……Petitioner.

Vs

1. 1st Additional District Judge, Nainital.
2. The Prescribed Authority Kichha/Additional Sub-Divisional Officer Nainital, Under U.P. Public Premises (Eviction of unauthorized Occupants) Act 1972.
3. The State of U.P. through Collector, Nainital.

……Respondents.

(2) Writ Petition No. 1870 (M/S) of 2001

Bhawan Giri, S/o Gulab Giri
R/o Village Kotla Patwari, Kshetra
Khateda Tehsil and District –Champawat. ……Petitioner.

Vs

1. State of U.P. through the Collector. Pithoragarh now District-Champawat.
2. District Judge, Pithoragarh.
3. Prescribed Authority Lohaghat, Champawat.

……Respondents.

(3) Writ Petition No. 2135 (M/S) of 2001

1. Raghubir Singh S/o Sri Ghamand Singh,
2. Guruaasnan Singh,
3. Shukhbir Singh.
   All above are Sons of Sri Trilochan Singh,
4. Param Jeet Singh, S/o Sri Bhagwant Singh.
5. Kamal Preet Singh, S/o Rajendra Singh.
   All above 1 to 5 are residents of Village Lauka, Tehsil Sitarganj, District- Nainital.

…….Petitioner.

Vs

1. State of U.P.
2. Prescribed Authority (Under U.P. Public Premises ‘Eviction of Unauthorised Occupants’) Act Khatima District-Nainital.
3. District Judge, Nainital.

……..Respondents.

(4) Writ Petition No. 2872 (M/S) of 2001

Sri Krishna Nand S/o Gauri Dutt.
Resident of Uttarkashi, District-Uttarkashi.

……..Petitioner.

Vs

1. District Judge, Uttarkashi,
2. Prescribed Authority, Bhatwari, District-Uttarkashi.
3. Sate of U.P.

……..Respondents

(5) Writ Petition No. 4777 (M/S) of 2001

Ravindra Nath Kabadwal, S/o Sri Devi Dutta
R/o Gangapur, Tehsil Haldwani, District-Nainital.

……..Petitioner

Vs

1. State of Uttar Pradesh
2. Additional District Judge (Special Judge) Nainital.
3. Prescribed Authority under the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972, Nainital.

……Respondents

(6) Writ Petition No. 4976 (M/S) of 2001

Ramadhar Singh S/o Phagu Singh,
Resident of Anandpur, Tehsil Kichha,
District-Nainital.

…….Petitioner.

Vs

1. District Judge, Nainital.

2. Prescribed Authority, Rudrapur,
   District Nainital.
3. State of Uttar Pradesh, through Collector, Nainital.

……Respondents

(7) Writ Petition No. 4975 (M/S) of 2001

Smt. Sarojani,
W/o Late Sri Kesh Malik,
R/o Khataula, Tehsil-Gadarpur,
District-Nainital.

……Petitioner

Vs

1. District Jugde, Nainital.
2. Prescribed Authority, Rudrapur, Nainital.
3. State of U.P.

……..Respondents

(8) Writ Petition No. 4064 (M/S) of 2001

Balkar Singh S/o Sri Guru Dayal Singh,
R/o Village Vijaynagar, Tehsil Gadarpur.
District-Nainital.

……Petitioner

Vs

1. State of U.P.
2. Prescribed Authority/Additional Sub-Divisional
   Magistrate, Rudrapur, District Nainital.
3. District Judge, Nainital.

……Respondents

(9) Writ Petition No. 4738 (M/S) of 2001

Col. Prabhakar Misra, S/o Sri A.P. Misra,
Resident of India Institute of Remote Sensing
Campus, Type ‘E’ quarters, -4 Kalidas Marg, Dehradun.

……..Petitioner

Vs

1. IVth Additional District Judge, Dehradun.
2. Estate Officer, Indian Institute of Remote Sensing (National Remote Sensing Agency), Dehradun.
3. National Remote Sensing "Agency, Balnagar, Hyderabad, Through its Director.
4. Indian Institute of Remote Sensing 4-Kalikdas, Marg, Dehradun through its Head.

……Respondents

(10) Writ Petition No. 5171 (M/S) of 2001

Harbansh Singh s/o Narain Singh R/o Sitarganj, Chinti Mazara, Post Sitaraganj, District-Nainital.

……..Petitioner

Vs

1. III Additional District Judge, Nainital. Camp at Haldwani.
2Prescirbed Authority/Additional Sub Divisional Officer under the U.P. Public Premises (Eviction of Unauthorized Occupants) At, Khatima, Nainital,
3. Sate of U.P., through the Collector, Nainital.

……Respondents

(11) Writ Petition No. 1865 (M/S) of 2001

1. Ishwari Dutt,
2. Basant Ballabh, Both Sons of Luxmi Dutt, R/o Village Kotla Patwri Kshetra Khatera Tehsil and District Champawat.

…….Petitioners.

Vs

1. State of U.P. through the Collector, Pithoragarh now District-Champawat.
2. District Judge, Pithoragarh.
3. Prescribed Authority Lohaghat.

…….Respondents

(12) Writ Petition No. 1974 (M/S) of 2001

Kalua S/o Salim
R/o Village Sultanpur Tehsil Bajpur,
District –Udham Singh Nagar.

……Petitioner

Vs

1. State of U.P. through Collector, Udham Singh Nagar.
2. Prescribed Authority/Deputy District Magistrate Kashipur, Udham Singh Nagar.
3. Special Judge/ Additional District Judge, Nainital.

……Respondent

(13)Writ Petition No. 2965 (M/S) of 2001

Jasvir Singh S/o Sri Vijendra Singh,
R/o Village Bara Khera, Tehsil and Post Gadarpur,
District-Nainital.

…….Petitioner

Vs

1. Prescribed Authority/Addl. Sub-Divisional Magistrate Tarai and Bhawa, Nainital.
2. District Judge, Nainital.
3. State of U.P.

……...Respondents

(14)Writ Petition No. 1477 (M/S) of 2001

Vikram Nath S/o Deo Narain R/o Village and post Office Premnagar, Tehsil Gadarpur, District-Nainital.

…….Petitioner.

Vs

1. Prescribed Authority (Additional Sub Divisional Magistrate, Tarai-Bhabhar, Nainital.
2. The District Judge, Nainital.

……..Respondents

(15)Writ Petition No. 1476 (M/S) of 2001

Vikram Nath S/o Deo Narain, R/o Village and Post Office Premnagar, Tehsil Gadarpur, District-Nainital.

…….Petitioner.

Vs

1. Prescribed Authority (Additional Sub Divisional Magistrate). Tarai-Bhabhar, Nainital.
2. The District Judge, Nainital.

……Respondents

(16)Writ Petition No. 1458 (M/S) of 2001

Nar Singh S/o Sher Singh (Since deceased)
R/o Khania, Pattiwallia, Village Atthagulli, P.O. Pant Kotli, Tehsil Ranikhet, District Almora and others.

…….Petitioners

Vs

1. Civil Judge, Almora,
2. Prescribed Authority, Ranikhet, District Almora.
3. State of U.P.

……..Respondents

(17)Writ Petition No. 4200 (M/S) of 2001

Amar Singh S/o Fakira
Caste Harijan R/o Village Baddhahpur, Pargana, Jwalapur, Tehsil-Haridwar, District-Saharanpur.

…..Petitioner

Vs

1. District Judge, Saharanpur,
2. S.D.O. Cum Prescribed Authority, Under U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972, Tehsil Hardwar, District-Saharanpur.

……Respondents

(18)Writ Petition No. 902 (M/S) of 2002

Smt. Leelawati Wife of Ramasya,
R/o Village Inderpur, P.O. Pratappur,
Tehsil Kichha, District-Nainital.

……Petitioner

Vs

1. The II nd Addl. District Judge, Nainital.
2. The Prescribed Authority/Sub-Divisional Magistrate Rudrapur, Tehsil-Kichha, District-Nainital.

……Respondents

(19)Writ Petition No. 4680 (M/S) of 2001

Aan Ram S/o Nari Ram Resident of Village Basani,
P.O. Halqa Fatehpur, Tehsil Haldwani, District-Nainital.

……..Petitioner

Vs

1. The 4th Addl. District Judge, Nainital.
2. The Vihit Pradhikari/Atrikta Parganadhikari, Haldwani, District-Nainital.
3. The State of Uttar Pradesh through the Collector, Nainital.

……..Respondents

(20)Writ Petition No. 4411 (M/S) of 2001

Mahendra Singh S/o Sri Inder Singh, Resident of Village Punar, Tehsil, Rudraprayag, District-Chamoli.

……Petitioner

Vs

1. State of U.P.
2. District Judge, Chamoli.
3. Prescribed Authority, Rudraprayag, District-Chamoli.

……Respondents

(21)Writ Petition No. 5708 (M/S) of 2001

1. Sri Rajendra Singh.
2. Sri Indra Singh.
3. Sri Narendra Singh.
   Sons of Late Sri Sher Singh,
   Residence of Village Danpur, Tehsil Kichha,
   District-Nainital.

…….Petitioners

Vs

1. The Special Judge, Nainital.
2. The Prescribed Authority/Additional Sub Divisional Magistrate, Tarai and Bhabar, District-Nainital.
3. State of U.P.

……..Respondents

(22)Writ Petition No. 3135 (M/S) of 2001

Sher Ram S/o Late Sri Bhanu Ram Lohar
R/o Village-Kotli, Patti-Talla Waldia,
P.O. Wadda, Tehsil and District-Pithoragarh.

……Petitioner

Vs

1. District Judge, Pithoragarh.
2. Prescribed Authority Under the U.P. Public Premises (Eviction of unauthorized Occupant) Act, 1972.
3. State of U.P. through Collector Pithoragarh.

…….Respondents.

(23)Writ Petition No. 465 (M/S) of 2001

Smt. Krishan Devi W/o Sri Chittar,
R/o Village Dhakya Kala,Tehsil Kashipur,
District-Nainital.

……Petitioner

Vs

1. The State of Uttar Pradesh.
2. The I st Addl. District Judge, Nainital.
3. The Prescribed Authority/Additional Sub-Divisional Magistrate, Nainital.

……Respondents

(24)Writ Petition No. 4709 (M/S) of 2001

1. Shamsudin
2. Fakhruddin
   Both Sons of Sri Azizuddin.
   Both residents of Village Ahmadnagar,
   Jaspur, Tehsil Kashipur, District-Nainital.

.....Petitioners

Vs

1. State of U.P.
2. II nd Addl. District Judge, Nainital.
3. Prescribed Authority/S.D.M. Kashipur
   District-Nainital.

……Respondents

(25) Writ Petition No. 4710 (M/S) of 2001

Harish Chandra S/o Badri Dutt
R/o Village Pau Patwari Kshetra Patan
Tehsil Champawat District-Pithoragarh.

…….Petitioner

Vs

1. District Judge, Pithoragarh.
2. Prescribed Authority
   Lohaghat, Pithoragarh/S.D.M. Lohaghat Pithoragarh
3. State of U.P.

……..Respondents

(26)Writ Petition No. 2964 (M/S) of 2001

Har Singh S/o Deo Singh resident of Village
Tallidine Patti Nai, Tehsil Dhari and District-Nainital.

……Petitioner

Vs

1. State of U.P. through Collector, Nainital.
2. II nd Additional District Judge, Nainital.
3. Prescribed Authority/Sub-Divisional Magistrate
   Nainital.

……Respondents

(27)Writ Petition No. 431 (M/S) of 2001

Lalit Prasad Pandey S/o Jwala Dutt Pandey,
R/o Patan Patwari P.O. Lohaghat, District-Pithoragarh.

……Petitioner

Vs

1. Prescribed Authority/Sub Divisional Officer,
   Lohaghat, District-Pithoragarh.
2. District Judge Pithoragarh, District-Pithoragarh.
3. State of U.P. through its Secretary.

……Respondents

(28)Writ Petition No. 2926 (M/S) of 2001

Jag Deo Singh S/o Vachan Singh,
Resident of Village Nabab Ganj, Lambokhera,
Tehsil Gadarpur, District Nainital.

……..Petitioner

Vs

1. State of U.P. through the Collector, Nainital.
2. The Second Upper Zila Judge, Nainital.
3. The prescribed Authority/S.D.O. Rudrapur,
   District Nainital.

…….Respondent.

(29)Writ Petition No. 2627 (M/S) of 2001

1. Devendra Kumar Shukla S/o Sri Indra.
2. Rajendra Kumar Shukla S/o Deo Shukla.
   Both residents of Village Ganeshpur,
   Post Office Narainpur, District-U.S. Nagar.

……Petitioner.

Vs

1. State of Uttar Pradesh.
2. III rd Additional District judge, Nainital.
3. Prescribed Authority/Additional Sub-Divisional
   Officer, Rudrapur, District-U.S. Nagar.

……..Respondents

(30)Writ Petition No. 2027 (M/S) of 2001

Khim Ram, S/o Lacham Ram, Resident of Village
Ghiroli, Patti, Dug, Tehsil Bageshwar, District Almora.

……Petitioner

Vs

1. District Judge, Almora.
2. Prescribed Authority Bageshwar,
   Under U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972.

……Respondents

(31)Writ Petition No. 2664 (M/S) of 2001

Ramesh Kumar,
S/o Sri Desh Raj,
R/o Village-Sakainia,
Tehsil-Gadarpur,
District-U.S. Nagar.

……Petitioner

Vs

1. State of U.P. through Chief Secretary.
2. Special Judge/Upper Judge, Nainital.
3. Prescribed Authority, Nainital
   (Under U.P. Public Premises and Eviction Act, 1987)

…….Respondents

(32)Writ Petition No. 2114 (M/S) of 2001

Jagdish Chandra Joshi S/o Sri Ghananand Joshi
Resident of Village Tella Biswa, Tehsil Ranikhet,
District-Almora.

……Petitioner.

Vs

1. The District Judge, Almora.
2. The Prescribed Authority/Sub- Divisional Magistrate, Ranikhet, District-Almora. ……..Respondents

(33)Writ Petition No. 1703 (M/S) of 2001

Harjeet Singh S/o late Chain Singh.
Resident of Village Lucknow, Tehsil-Gadarpur,
District-Udham Singh Nagar. …….Petitioner

Vs

1. State Of U.P. through Collector U.S. Nagar.
2. Special Judge/Upper District and Session Judge, Nainital.
3. The Prescribed Authority (Under the U.P. Public Premises Eviction of Unauthorsied Occupants Act, 1972 and S.D.M. Rudrapur, District-U.S. Nagar.

……..Respondents

(34)Writ Petition No. 2984 (M/S) of 2001

Baldeo Raj S/o Sri Sameer Chand, Resident of Girdhar Nagar, Tehsil Gadarpur, District-U.S. Nagar.

……..Petitioner.

Vs

1. State of U.P. through the Collector, U.S. Nagar.
2. The Prescribed Authority/S.D.M. Rudrapur, District-U.S. Nagar.
3. The Special Judge (E.C. Act)/Additional District Judge, Nainital.

…….Respondent.

(35)Writ Petition No. 1867 (M/S) of 2001

Lalit Varma S/o Chandu Lal Verma,
R/o Village and Patwari Kshetra Lohaghat
Tehsil and District –Champawat.

……..Petitioner

Vs

1. Sate of U.P. through the Collector Pithoragarh, Now District- Champawat.
2. District Judge, Pithoragarh.
3. Prescribed Authority Lohaghat, Champawat.

……Respondents

(36)Writ Petition No. 1868 (M/S) of 2001

Jagdish Lal S/o Sri Ishwari Lal
R/o Village Malla Khaula Patwari Kshetra
Bara Kot, Tehsil and District-Champawat. ……Petitioner.

Vs

1. State of U.P. through the College Pithoragarh,

Now District-Champawat.
2. District Judge, Pithoragarh.
3. Prescribed Authority, Lohaghat, Champawat.

…….Respondents

(37)Writ Petition No. 1869 (M/S) of 2001

Shankar Dutt Pandey,
S/o Hira Vallabh,
R/o Kotla, Tehsil and District-Champawat. ……..Petitioner.

Vs

1. State of U.P. through the Collector, Pithoragarh,
   Now District-Champawat.
2. District Judge, Pithoragarh.
3. Prescribed Authority, Lohaghat, Champawat.

…….Respondents.

(38)Writ Petition No. 1599 (M/S) of 2001

Preetam Singh S/o Bhagwan Singh,
R/o Jhagadpuri, Tehsil-Gadarpur,
District – Udham Singh Nagar.

…….Petitioner

Vs

1. Addl. District Judge, Udham Singh Nagar.
2. Prescribed Authority/Additional Sub-Divisional
   Magistrate, Udham Singh Nagar.

……..Respondents

(39)Writ Petition No. 1977 (M/S) of 2001

Bachan Singh S/o Sri Akan Singh,
R/o Village Rajpur Saidatiganj, Tehsil Rudrapur,
District –Nainital. …….Petitioner.

Vs

1. State of U.P. through the Collector Nainital.
2. Special Judge/Addl. District Judge.
3. The Prescribed Authority, Rudrapur.

……Respondents

(40)Writ Petition No. 1262 (M/S) of 2001

Sultan Singh S/o Baga Singh,
Resident of Village Netaji Nagar,
Post Dineshpur, District Udham Singh Nagar.

……..Petitioner.

Vs

1. State of U.P. through Collector, U.S. Nagar.
2. S.D.M/Prescribed Authority, Rudrapur, District-Nainital. (Now Udham Singh Nagar).
3. Tehsildar, Tehsil Gadarpur, District U.S. Nagar.
4. Special Judge (E.C.Act)/Addl. District Judge, Nainital.

……..Respondents

(41)Writ Petition No. 1443 (M/S) of 2001

Bharat Singh, S/o Maru Singh,
Resident of Bada-Supta, Maniyar Chamba
Tehri Garhwal.

……..Petitioner

Vs

1. The District Judge, Tehri Garhwal, New Tehri.
2. The Prescribed Authority (Under U.P. Public Premises Act, 1972) Tehri Garhwal, New Tehri.
3. The Collector, Tehri Garhwal, New Tehri.
4. The State of U.P.

……..Respondents

(42)Writ Petition No. 2677 (M/S) of 2001

1. Banni Singh
2. Ramesh Singh, sons of Mukhtiar Singh, Residents of Village Nakha, Post Office Kunwarpur Sisaiya, Tahsil Sitarganj, District Nainital.

……..Petitioner.

Vs

1. I Additional District Judge, Nainital.
2. The Prescribed Authority Khatima, District Nainital.

3. The State of U.P.

…….Respondents

Sarvsri M.C. Kandpal, Sr. Adv. assisted by Kurban Ali, B.D. Upadhyaya, Jagdish Prasad, Sudhir Kumar, S.S. Adhikari, J.C. Pande, Lokendra Dobhal, B.S. Negi, S.K. Mandal, Sharad Sharma, Arvind Vashist, Vijay Bhatt, K.N. Joshi, Ajay Singh Bisht, J.S. Virk, Nadan Arya, Rakesh Thapliyal and G.C. Kandpal, learned counsel for the petitioners.
Sri M.S. Negi, Advocate General, assisted by Sri Nand Prasad, Standing Counsel and Sri Atul Bansal, learned counsel for the respondents-State.

Dated May 25, 2006.

Hon'ble B.S. Verma, J.

In all these writ petitions similar questions are involved for determination and the proceedings against the petitioners in all the cases were initiated under the provisions of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act 1972 (***hereinafter referred to as the Act)***, therefore, for the sake of convenience, all the matter have been clubbed together and are being decided by a common judgment.

In Writ Petition No. 3235 of 2001 the petitioner has challenged the order passed by the respondent no. 2- Prescribed Authority dated 31-8-1992, whereby the noticed issued to the petitioner under Section 4(1) of the Act was confirmed thereby ordering the eviction of the petitioner from the land in dispute under Section 5 of the Act. Aggrieved, the petitioner preferred appeal before the Appellate Court, which was dismissed vide order dated 30.5.1994. In Writ Petition No. 1870 of 2001, the petitioner has challenged the order dated 24-6-1997 passed by the Prescribed Authority as well as judgment and order dated 10-2-1999 passed by the District Judge in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 2135 of 2001, the petitioner has challenged the order dated 3-4-1981 passed by the Prescribed Authority as well as judgment and order dated 21-10-1981 passed by appellate court in Eviction Appeal, whereby the petitioner was ordered to pay damages in respect of illegal occupation and use of the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No.4777 of 2001, the petitioner

has challenged the order dated 19-10-84 passed by the Prescribed Authority as well as judgment and order dated 24-10-1986 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 4976 of 2001, the petitioner has challenged the order dated 26-9-1989 passed by the Prescribed Authority as well as order dated 12-4-1991 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court on the ground of bar of limitation in filing the appeal. In Writ Petition No. 4975 of 2001, the petitioner has challenged the order dated 27-12-1989 passed by the Prescribed Authority as well as judgment and order dated 20-7-1990 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 4064 of 2001, the petitioner has challenged the order dated 4-7-1991 passed by the Prescribed Authority as well as judgment and order dated 14-5-1992 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 4738 of 2001, the petitioner has challenged the order dated 14-5-1993 passed by the Prescribed Authority as well as judgment and order dated 8-9-1993 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court as well as to pay the damages. In Writ Petition No. 5171 of 2001, the petitioner has challenged the order dated 30-4-1987 passed by the Prescribed Authority as well as judgment and order dated 23-12-1994 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 1865 of 2001, the petitioner has challenged the order dated 24-6-1997 passed by the Prescribed Authority as well as judgment and order dated 10-2-1999 passed by the appellate court in Eviction Appeal, whereby the petitioner was order to be evicted from the disputed land and his

appeal was dismissed by the appellate court. In Writ Petition No. 4777 of 2001, the petitioner has challenged the order dated 22-12-1996 passed by the Prescribed Authority as well as judgment and order dated 18-04-2000 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 2965 of 2001, the petitioner has challenged the order dated 13-8-1979 passed by the Prescribed Authority as well as judgment and order dated 29-02-1980 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 1477 of 2001, the petitioner has challenged the order dated 9-11-78 passed by the Prescribed Authority as well as judgment and order dated 18-5-1979 and 2.2.1980 passed by the appellate court in Eviction Appeal, whereby the petitioner ws ordered to be evicted from the disputed land and his appeal was dismissed ex-parte by the appellate court and application for restoration of appeal too was dismissed. In Writ Petition No. 1476 of 2001, the petitioner has challenged the order dated 9-11-1978 passed by the Prescribed Authority as well as judgment and order dated 18-5-1979 and 2-02-1980 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed ex-prate by the appellate court and his restoration application too was rejected. In Writ Petition No.1458 of 2001, the petitioner has challenged the order dated 8-9-1983 passed by the Prescribed Authority as well as judgment and order dated 25-8-1984 passed by he appellate court in Eviction Appeal, whereby the petitioner ws ordered to be evicted from the disputed land and his appeal was dismissed by he appellate court. In Writ Petition No. 4200 of 2001, the petitioner has challenged the order dated 13-9-1984 passed by the Prescribed Authority as well as judgment and order dated 30-4-1985 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 902 of 2001, the petitioner has challenged the order dated 18-10-1985 passed by the Prescribed Authority as well as judgment and order

dated 15-06-1989 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by he appellate court. In Writ Petition No. 4680 of 2001, the petitioner has challenged the order dated 27-6-1987 passed by the Prescribed Authority as well as judgment and order dated 4-5-1988 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 4411 of 2001, the petitioner has challenged the order dated 31-1-1991 passed by the Prescribed Authority as well as judgment and order dated 12-11-1991 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 5708 of 2001, the petitioner has challenged the order dated 6-8-1986 passed by the Prescribed Authority as well as judgment and order dated 6-5-1991 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 3135 of 2001, the petitioner has challenged the order dated 27-08-1990 passed by the prescribed Authority as well as judgment and order dated 30-6-1993 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ petition No. 465 of 2001, the petitioner has challenged the order dated 24-10-1991 passed by the Prescribed Authority as well as judgment and order dated 7-9-1993 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No.4709 of 2001, the petitioner has challenged the order dated 17-6-1993 passed by the Prescribed Authority as well as judgment and order dated 20-5-1995 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 2965 of 2001, the petitioner has challenged the order dated 13-8-1979 passed by the Prescribed Authority as well as judgment and order

dated 29-02-1980 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 4710 of 2001, the petitioner has challenged the order dated 2-1-1992 passed by the Prescribed Authority as well as judgment and order dated 21-2-1994 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. Regularization prayer of the petitioner was also rejected vide order dated 26-7-1995 by the Prescribed Authority. In Writ Petition No. 2964 of 2001, the petitioner has challenged the order dated 08-12-1993 passed by the Prescribed Authority as well as judgment and order dated 20-5-1995 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 431 of 2001, the petitioner has challenged the order dated 19-4-1993 passed by the Prescribed Authority as well as judgment and order dated 20-02-1995 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 2926 of 2001, the petitioner has challenged the order dated 18-2-94 passed by the appellate court dismissing the Eviction Appeal for default, and being barred by time and vide order dated 5-8-1995, the application of the appellant for recalling the order was also dismissed. In Writ Petition No. 2627 of 2001, the petitioner has challenged the order dated 11-2-1992 passed by the Prescribed Authority as well as judgment and order dated 18-11-1996 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 2027 of 2001, the petitioner has challenged the order dated 20-6-1994 passed by the Prescribed Authority as well as judgment and order dated 9-7-1997 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 2664 of 2001, the petitioner has challenged the

order dated 21-5-1992 passed by the Prescribed Authority as well as judgment and order dated 30-3-1998 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 2114 of 2001, the petitioner has challenged the order dated 10-10-1995 passed by the Prescribed Authority as well as judgment and order dated 17-9-1998 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 1703 of 2001, the petitioner has challenged the order dated 30-3-1992 passed by the Prescribed Authority as well as judgment and order dated 5-9-1998 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 2984 of 2001, the petitioner has challenged the order dated 6-1-1993 passed by the Prescribed Authority as well as judgment and order dated 21-4-1999 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 1867 of 2001, the petitioner has challenged the order dated 24-6-1997 passed by the Prescribed Authority as well as judgment and order dated 10-2-1999 passed by the appellate court in Eviction Appeal, whereby the petitioner ws ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No.1868 of 2001, the petitioner has challenged the order dated 24-6-1997 passed by the Prescribed Authority as well as judgment and order dated 10-2-1999 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 1869 of 2001, the petitioner has challenged the order dated 24-6-1997 passed by the Prescribed Authority as well as judgment and order date 10-2-1999 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 1599 of 2001, the petitioner has challenged the

order dated 30-6-1999 passed by the Prescribed Authority as well as judgment and order dated 18-2-2000 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No. 1977 of 2001 (A) (old no. 31498 of 2000), the petitioner has challenged the order dated 20-12-1991 and 13-7-1990 passed by the Prescribed Authority as well as judgment and order dated 18-1-1999 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and to pay the damages for illegal use and occupation and his appeal was dismissed by the appellate court. In Writ Petition No. 1262 of 2001, the petitioner has challenged the order dated 21-6-1995 passed by the Prescribed Authority as well as judgment and order dated 5-9-1988 read with order dated 1.5.2000 passed by the appellate court in Eviction Appeal, whereby, the petitioner was ordered to be evicted from the disputed land and his appeal as well as review petition were dismissed by the appellate court. In Writ Petition No.1443 of 2001, the petitioner has challenged the order dated 22-7-1997 passed by the Prescribed Authority as well as judgment and order dated 18-12-1997 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. In Writ Petition No.2677 of 2001, the petitioner has challenged the order dated 22-5-1979 passed by the Prescribed Authority as well as judgment and order dated 24-6-1983 passed by the appellate court in Eviction Appeal, whereby the petitioner was ordered to be evicted from the disputed land and his appeal was dismissed by the appellate court. Aggrieved, the present writ petitions were filed.

Relevant facts are that Notices under Section 4(1) of the Act to show cause as to why the petitioners be not evicted from the land in question were issued by the Prescribed Authority in all the cases, against which the petitioners filed their objections/written reply pleading inter alia that the provisions of the Act were not applicable and that they had been using the land for growing crops, grass etc.

Intending that the land is being used for agricultural purposes, hence the notice issued to them was bad in law and the same be discharged because the provisions of the Act were not applicable to the agricultural land. However, the Prescribed being satisfied from the *challani* report, proceedings were drawn against the petitioners under the Public Premises Act and Prescribed Authority passed the impugned order confirming the notice under Section 4(1) of the Act. Aggrieved, the petitioners preferred appeal under Section 9 of the Act before the Appellate Court/District Judge. The appellate Court too dismissed the appeals, hence the writ petition.

I have heard Sarvsri M.C. Kandpal, learned Senior Advocate, assisted by Kurban Ali, Sudhir Kumar, J.C. Pande, Sharad Sharma, Arvind Vashist, Bijay Bhatt, Jagdish Prasad, B.D. Upadhyaya, J.s. Virk, Rakesh Thapliyal and others appearing for the petitioners and Sarvsri Meharban Singh Negi, learned Advocate General assisted by Sri Nand Prasad, learned Standing Counsel as well as Sri Atul Bansal, appearing on behalf of the State of Uttaranchal and perused the material on record.

Learned counsel for the petitioners have vehemently argued that the land in question is agricultural land, therefore, the proceedings und the said Act could not have been initiated where the subject-matter is the land. It is further submitted that if the petitioners were unauthorised occupants over the land in question, in that eventuality the State may initiate proceedings under the provisions of U.P. Zamindari Abolition and Land Reforms Act 1950 (U.P. Act No.1 of 1951) against the petitioners as the land held by tenure holder for the time being is not a ‘public premises’. On the other hand, the learned counsel for the State while supporting the impugned judgment and orders submitted that the land in question is covered by the definition of ‘public premises’ as mentioned in the said Act, therefore, the courts below was justified in passing the impugned orders.

Having heard the trivial contentions of the parties, the main controversy involved in these writ petitions are as under:-

1. Whether the notice issued under Section 4(1) of the Act itself is invalid and should be quashed?

2. Whether the provisions of the Act are not applicable to the facts of the cases?

3. Whether the judgment and order passed by the Prescribed Authority were contrary to the mandate of Section 5?

4. Whether the order of the appellate authority is also bad whereby the judgment of the Prescribed Authority was upheld?

For just decision of the writ petition, the definition of 'premises' and 'public premises as given under Section 2(b) and 2(e) of the Act may be reproduced below:-

"Premises' means any land including any forest land or trees standing thereon, or covered by water, or a rood maintained by the State Government or land appurtenant to such road, or any building or part of a building and includes-

(i) the garden, ground and out-housed, if any, appertaining to such building or part of a building and;

(ii) any fitting or fixtures affixed to or any furniture supplied with such building or par of a building for the more beneficial enjoyment thereof;

but does not include land which for the time being is held by a tenure-holder under any law relating to land tenure."

"Public premises" means any premises belonging to or taken on lease or requisitioned by or on behalf of the State Government and includes any premises belonging to or taken on lease by or on behalf of-

(i) any company as defined in Section 3 of the Companies Act, 1956, in which not less than fifty-one per cent of the paid up share capital is held by the State Government; or

(ii) any local authority; or

(iii) any Corporation (not being a company as defined in Section 3 of the Companies Act, 1956 or a local authority) owned or controlled by the State Government; or

(iv) any society registered under the Societies Registration Act, 1860, the governing body whereof consists, under the Rules or regulations of the Society, wholly of public officers or nominees of the State Government or both;

and also includes

(i) ***Nazul and or any other premises entrusted to the management of a local authority*** *(including any building built with Government funds on lands belonging to the Stat Government after the entrustment of the land to that local authority, not being land vested*

in or entrusted to the management of a Gaon Sabha or any other local authority under any law relating to land tenures);

(ii) any premises acquired under the Land Acquisition Act, 1984 with the consent of the State Government for a company (as defined in the Act) and held by that company under an agreement executed under Section 41 of that Act providing for re-entry by the State Government in certain conditions.

Section 4 of the Act provides for issue of notice to show-cause against order of eviction and sub-section(1) reads that *"If the prescribed authority, either of its own motion or on an application or report received on behalf of he State Government or the corporate authority, is of opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted, the prescribed authority shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show-cause why an order of eviction should not be made."*

Sub-Section (2) provides that the notice shall-(a) specify the grounds on which the order of eviction is proposed to be made; and (b) require all persons concerned, that is to say, all persons, who are, or may be, in occupation of, or claim interest in, the public premises, to chow-cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof.

At the outset it may be noted that in all the case the land in question shown in the notice is an agricultural land and the petitioners are shown to be unauthorised occupants thereof. It has not been disputed on behalf of the State that the petitioners were found growing crops, plants and grass over the disputed land, meaning thereby that it has not been seriously challenged that the land was being mainly for agricultural purposes.

It finds place to mention here that the defecation of " land" as provided under Section 3(14) of the Z.A. & L.R. Act reads as under:-

"Land" [except in Section in 109, 143 and 144 and Chapter VII] means land held or occupied for purposes connected with agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming."

In the light of the definitions as provided for 'premises' and 'public premises' under U.P. Act No. XXII of 1972 as well as the definition of "Land" as mentioned in Section 3(14) of he Z.A. & L.R. Act, there is no room to doubt that the land allegedly occupied by the petitioners is fully covered by the provisions of the Z.A. & L.R. Act. The provisions of the U.P. Act No. XXII of 1972 do not appear to have been applicable even from the extremity of imagination in the present writ petitions. There are ample powers with the State/Revenue Authorities to initiate adequate proceedings for eviction of the petitioners under the Zamindri Abolition and Land Reforms Act and others allied laws in force. The main contention of the learned counsel for the petitioners before me is that the eviction proceedings in respect of the land used for agricultural purposes including horticulture animal husbandry, pisciculatue and poultry farming could not have been drawn under the Public Premises Act and the proper course open to the State was to have taken recourse to the provisions of Z.A. & L.R. Act and other allied laws in force, because the land held by a tenure holder for the time being is not a 'public premises'. It has not been disputed that the petitioners were found to have been growing crops etc. over the land in dispute. It is, thus, quite evident from the material on record including the objections filed by the petitioners before the Prescribed Authority that the petitioners were in occupation of the land as tenure holder for the time being. The provisions of the Z.A. and L.R./**KUZA** Act were applicable. In any view of the matter, in my opinion, the provisions of the U.P. Act No. XXII of 1972 were not applicable to the present matters. Accordingly, all the four points are answered. Proceedings under the Act drawn against the petitioners are without jurisdiction. The impugned judgment and orders passed by the Prescribed Authority as well as the Appellate Courts concerned are liable to be quashed. I am fortified in my view by the judgment of this Court as well as of the Allahabad High Court, which shall be referred

to hereinafter, wherein similar questions were dealt with by their Lordships.

Learned counsel for the petitioners submitted that similar controversy had already been decided by this Court in other similar writ petitions, namely. Civil Misc. Writ Petition No.176 (M/S) of 2001 Ranjeet Singh Vs. State U.P. and others with W.P. No.177 (M/S) of 2001 and Writ Petition No. 178 of 2001 reported in ***[2002 (1), E.L.C., 508 (High Court)]*** and after considering the definition of "premises" as well as "public premises" as referred to hereinbefore and the definition of the " Land" as given in Section 3(14) of the U.P. Zamindari Abolition and Land Reforms Act, (***for short the Z.A. & L.R. Act)*** is has been observed in paragraph 7 that "Therefore, a conjoin reading of the definitions given under the Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1972 of the premises and public premises clearly exclude the application of the provision of the U.P. Public Premises (Eviction of Unauthorised Occupants Act in case a tenure holder holds the land for the time being. In the present case, the evidence is on record that the petitioners were in possession on the disputed land from 1380 Fasli. Therefore, at the time when proceedings were initiated for eviction, the petitioners were a tenure holder for the time being." Learned counsel for the petitioners pointed that all the points under controversy have already been answered by the aforesaid judgment of this Court. The learned counsel for the respondents-State has fairly conceded to this fact.

I have perused the earlier judgment passed by this Court and find that the present writ petitions involve the same controversy, which has already been answered by this Court in the aforesaid writ petitions. In Paragraph no. 8, the following observations were made by this Court:-

"8. Hence the proceedings could only be drawn under U.P. Zamindari Abolition and Land Reforms Act and could not have been drawn under the Uttar Pradesh Public premises (Eviction of

Unauthorised Occupants) Act. Thus, the proceedings initiated under the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, which gave rise to these writ petition were without jurisdiction."

Ultimately, the writ petitions allowed with the observation that it is open to the State to evict the petitioners as per provisions of the U.P. Zaimindari Abolition and Land Reforms Act and it was also left open to the petitioners to get their title declared under the provisions of Section 229-B of the Z.A. & L.R. Act.

Similar controversy had arisen before the Allahabad High Court in the case of ***Baldeo Raj Vs. State of Uttar Pradesh and others [1984, A.W.C., Page 568)*** in which it was held that ***"U.P. Public Premises (Eviction of Unauhorised Occupants) Act, 1972 Secs. 2(e)(i), 4 and 5- Public Premises- Eviction from- Averments contained in the notice itself and as set up by opposite parties made it clear that the land was covered under the provisions of UP ZA and LR Act- Land was not capable of being classified as "public premises"- Eviction if at all had to be proceeded with under ZA Act- Proceedings under 1972 Act directing eviction of petitioner under the provisions of said Act without jurisdiction."*** Same view has been taken by he Allahabad High Court in the case of ***"Kripal Singh Vs. D.J. Nainital and others [1988, R.D., page 188]*** wherein it has been observed that ***"It goes without saying that the U.P.Z.A. and L.R. Act and the allied laws provide ample power to the revenue officials where there is no Gaon Sabha to initiate proceedings under the said laws."***

Having considered the entire material on record from the all the four corners and the Judgments passed by this Court as well as by the Allahabad High Court, referred to above, I am in full agreement with the view taken therein by Their Lordships and since in all the writ petitions before me, the ***land*** in dispute is covered by the definition as given in Section 3(14) of he U.P. Zamindari Abolition and Land Reforms Act, 1950, it can be safely concluded without any hesitation that the petitioners are the tenure-holders of the agricultural land for the

time being, therefore, the proceedings drawn by the Prescribed Authority concerned under the provisions of the U.P. Public Premises Act (Act No. XXII of 1972) against the petitioners were without jurisdiction and the impugned orders are liable to be aside, Consequently, the judgment and orders passed by the appellate court under Section 9 of the Act are liable to be quashed. It is open to the State to proceed for eviction of the petitioners in accordance with the provisions of the Z.A. and L.R. Act and **KUZA** Act and other allied laws for their eviction from the land in dispute.

In view of the discussion aforesaid, all the 42 writ petitions deserve to be allowed and are hereby allowed. However, it is open to the State to proceed for eviction of the petitioners from the disputed land in accordance with the provisions of the Z.A. & L.R. Act and other allied laws. The petitioners may also get their title declared by filing suit under Section 229-B of the Z.A. & L.R. Act and **KUZA** Act, as the case may be, provided they establish their stand before the Revenue Court by leading evidence to that effect. Accordingly, the notices issued against the petitioners under Section 4(1) of the Act stand discharged. No order as to costs.

(B.S. Verma, J.)

RCP